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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,570	03/29/2004	Patricia J. Mansour		2066

7590 12/29/2004  
Edward P. Dutkiewicz  
P.O. Box 511  
Largo, FL 33779-0511

EXAMINER

LEE, JONG SUK

ART UNIT PAPER NUMBER

3673

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/811,570

Applicant(s)

MANSOUR ET AL.

Examiner

Jong-Suk (James) Lee

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:  
Page 1, 1<sup>st</sup> paragraph: "and presently pending" should be -- , now U.S. Patent No. 6,821,056. -- in order to clarify the status of the parent application.  
Appropriate correction is required.

### *Claim Objections*

2. Claims 1-3 are objected to because of the following informalities:  
Claim 1, line 9: "a foundation of a structure" should be --the foundation of the structure --.  
Claim 1, line 39 and 41 respectively: The claims are objected to because they include reference characters, such as "threaded cylinders 132" and "nuts 134" which are not enclosed within parentheses.  
Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

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Claim 2, lines 6-7: "the sleeve and guide tube and grout tube" should be -- the sleeve, a guide tube and the grout tube --.

Claim 3, line 3: "a grout tube" should be -- the grout tube --.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1: The limitation, "the lower cross brace having associated there with threaded cylinders....." in lines 38-39 renders the claim indefinite because it is not clear as to which element is associated with there with the threaded cylinders. It appears to omit the structural element.

Re claim 2: The limitation, "the lower cross brace having associated there with threaded cylinders....." in lines 8-9 renders the claim indefinite because it is not clear as to which element is associated with there with the threaded cylinders. It appears to omit the structural element.

Re claim 4: The limitation, "the upwardly extending collar" in line 3 lacks clear antecedent basis.

Re claim 5: The limitation, "the vertical coupling section" in line 4 lacks clear antecedent basis.

Claims 3-6 are dependent upon claim 2.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 2-4 and 6, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Hartmann (US 4,997,314).

Hartmann discloses a pressure grouted pier and pier inserting tool comprising: a support bracket (18) with a horizontal portion and having a pair of threaded recesses (21) and a sleeve (20) therebetween; a grout tube (6) having a plurality of apertures (29) along its length (Fig. 6), a lower cross brace (7-9) positioned above the sleeve and a guide tube (32) and grout tube (6) with unthreaded holes axially aligned with the threaded recesses of the support bracket, a

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supplemental tube (27) located within the grout pipe (6) the lower cross brace having a upwardly extending collar (13) associated there with threaded cylinders (3) with lower ends coupled to the threaded recesses (9) and upper ends extending through the unthreaded holes and with nuts received by the upper ends of the threaded cylinders above the lower cross brace (7-9), the nuts adapted to be rotated for raising the support bracket, a guide tube slidably received between the sleeve and the grout tube, a pressurized grout dispensing unit with a horizontal section and a vertical coupling section with a lower end adapted to releasably coupled to the upwardly extending collar (13) of the lower cross brace (see Figs. 1-10; col.4, lines 37-68; col.5, lines 1-57; col.7, lines 1-47).

### ***Obviousness-Type Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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8. Claim 7 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6, 821,056 in view of Hartmann. The teachings of Hartmann have been discussed above.

The '056 Patent discloses a grout injecting/structure anchoring system as recited in claim 7 except a supplemental tube with an upper end and a lower end slidably received within the supportive tube.

Hartmann discloses a pressure grouted pier and pier inserting tool including a supplemental tube (27) located within the supportive tube (6) as depicted in Fig. 7 (see col.7, lines 1-14).

Therefore, in view of Hartmann, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the supplemental tube to the supportive grout tube of the '056 Patent in order to enhance the stability of the foundation by reinforcing the supportive grout tube with the secondary tube located therewithin.

#### *Allowable Subject Matter*

9. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

10. Claims 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Claim 7 would be allowable over the prior art of record upon timely filing Terminal Disclaimer.

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*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose an apparatus and method for raising a foundation, a devices for lifting and supporting a structure and a method for positioning and stabilizing a concrete slab.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl  
December 23, 2004



**Jong-Suk (James) Lee**  
**Primary Examiner**  
**Art Unit 3673**